

BEFORE THE NORTH CAROLINA

ENVIRONMENTAL MANAGEMENT COMMISSION

STATE OF NORTH CAROLINA)
)
COUNTY OF CHATHAM)
)
IN THE MATTER OF:)
ARAUCO NORTH AMERICA, INC.)
MONCURE MANUFACTURING SITE)
)
[FACILITY ID 1900015])
)

SPECIAL ORDER BY CONSENT
SOC 2019-001

This SPECIAL ORDER BY CONSENT (hereinafter referred to as the “ORDER”) is made and entered into pursuant to North Carolina General Statute 143-215.110 by and between ARAUCO North America, Inc. (hereafter referred to as “ARAUCO” or “COMPANY”) and the ENVIRONMENTAL MANAGEMENT COMMISSION, an agency of the State of North Carolina (hereinafter referred to as the “COMMISSION”).

WITNESSETH:

- I. The COMMISSION and ARAUCO hereby stipulate and agree to the following:
 - A. ARAUCO North America, Inc. (“ARAUCO” or “COMPANY”) operates a manufacturing site (hereafter referred to collectively as the “FACILITY”) that includes a Medium Density Fiberboard Manufacturing Facility (“MDF Facility”) in Moncure, Chatham County, North Carolina. The FACILITY currently operates under Air Permit 03449T51 (“PERMIT”) which was issued by the North Carolina Division of Air Quality (“DAQ”) on March 6, 2019.
 - B. The FACILITY is an affected source subject to requirements under 40 CFR Part 63 Subpart DDDD (“Subpart DDDD” or “MACT”) to control hazardous air pollutants (“HAPs”) and subject to certain requirements under the Prevention of

Significant Deterioration (“PSD”) program. The MACT requirements for the FACILITY are summarized in Section 2.2.A.1. of the PERMIT, and Section 2.2.B.2. of the PERMIT outlined the Best Achievable Control Technology (“BACT”) under the PSD program. These requirements include a condition for 50% Destruction/Removal Efficiency (“DRE”) for Wood Products Protocol 1 Volatile Organic Compounds (“WPP1 VOC”) from the MDF Facility. Section 2.2.B.2.b. requires the COMPANY to demonstrate compliance with the 50% DRE for WPP1 VOC from the MPF Facility by May 20, 2019. The COMPANY did not complete the required testing by May 20, 2019.

- C. Air pollutants from the MDF FACILITY are controlled by a series of emission control devices including a Biofilter (Permit ID No. CD-18) (hereafter referred to as the “BIOFILTER”). The BIOFILTER was installed over the past three years as prescribed under the terms of a prior Special Order by Consent between the COMMISSION and ARAUCO (SOC 2015-02). The BIOFILTER replaced a prior control device, which was a Photo-catalytic Gas Treatment (PGT) system intended to oxidize and thereby destroy volatile organic emissions, including the HAPs formaldehyde and methanol.
- D. ARAUCO has experienced significant operational issues with the BIOFILTER since startup in February 2018. In particular, the BIOFILTER has had to be restarted on several occasions to assure sufficient biological growth for proper operation. Startups have required adjustment of several factors to achieve sufficient biological growth. The adjustments included eliminating urea injection for 30 days under a Deferral of Enforcement issued by DAQ, slowly increasing

- fan speed to increase emission loading of the BIOFILTER, and adding bacteria from several different sources in order to diversify the biological population.
- E. More recently, the COMPANY has discovered substantial damage within the BIOFILTER including serious deterioration of the concrete structure. Continued operation of the BIOFILTER without remedying the damage and deterioration could result in failure of the BIOFILTER in addition to reduced pollutant control and ultimately total degradation of the unit.
- F. As a result of the operational problems with the BIOFILTER, the FACILITY has documented lower than expected control efficiencies for methanol, a primary WPP1 VOC and HAP associated with the MDF Facility operations. Although the BIOFILTER has met the initial performance demonstration requirements of MACT Subpart DDDD based on its control of formaldehyde emissions, the COMPANY does not believe that the BIOFILTER can meet the 50% DRE for WPP1 VOC BACT requirement under operational conditions to date.
- G. To repair and optimize performance of the BIOFILTER will require physical internal and external modifications. Accomplishing the required work will necessitate total shutdown of the BIOFILTER. Once the modifications are completed, a slow ramp up to restart the BIOFILTER will be required in order to assure improved biological activity and overall system performance. These steps will require significant time to complete.
- H. In addition to the foregoing, the BIOFILTER vendor has raised concerns about the urea injection system used to reduce nitrogen oxide (“NOx”) emissions from the MDF Facility. In particular, the vendor believes that the urea may be

interfering with the operation and performance of the BIOFILTER and that modification or elimination of the urea injection system may be necessary to assure proper operation of the BIOFILTER.

- I. On March 8, 2019, COMPANY representatives met with DAQ staff from the Raleigh Regional Office and Raleigh Central Office Technical Services and Permitting Sections to discuss the destruction efficiency and reliability problems with the BIOFILTER and the measures necessary to correct them. On May 8, 2019, ARAUCO notified DAQ that the COMPANY had made the decision to shut down the BIOFILTER on the day of the notification for an indefinite period of time due to concerns about employee safety, catastrophic equipment failure, and control device downtime.
- J. On June 5, 2019, DAQ issued a Notice of Violation/Notice of Recommendation for Enforcement (“NOV/NRE”) to ARAUCO for operation of the MDF Facility without the BIOFILTER in operation resulting in violations of the FACILITY’s BACT and MACT PERMIT requirements.
- K. On June 28, 2019, ARAUCO submitted its response to the June 5, 2019 NOV/NRE. The COMPANY documented progress made to date in terms of working with contractors and consultants to address the documented structural and performance issues associated with the BIOFILTER. The COMPANY also provided a proposed schedule of events that would allow the MDF Facility to be in compliance with all PERMIT requirements subject to this ORDER by August 2020.
- L. Given the expected extended period of noncompliance with PERMIT

requirements due to the BIOFILTER being shut down or bypassed while being repaired and modified, the COMPANY requested to enter into this ORDER with the COMMISSION.

- M. This ORDER authorizes operation of the MDF Facility without operating the BIOFILTER for the time periods specified herein for the COMPANY to modify, restart the BIOFILTER, and optimize performance in order to meet the requirements of the PERMIT.
- N. During the period of this ORDER, all pollution control equipment at the FACILITY, other than the BIOFILTER that is required by the current air permit shall continue to operate in compliance with applicable requirements.

THEREFORE, the COMMISSION and the COMPANY, desiring to resolve and settle the compliance issues between them, have agreed to enter into this ORDER with the following terms and conditions:

- II. The COMPANY, desiring to operate in a safe and environmentally sound manner in accordance with the rules and regulations of the COMMISSION does hereby agree to perform the following activities:
 - A. If not already signed by the effective date of this ORDER, the COMPANY shall sign the necessary contract(s) for remedial work on the DEVICE within 30 days after execution of this SOC.
 - B. If not already commenced as of the effective date of this ORDER, the COMPANY shall commence the remedial work according to the specifications in the contract(s) no later than 15 days after signing the necessary contract(s).
 - C. The COMPANY shall complete the remedial work as provided in the contract(s)

by December 31, 2019.

- D. The COMPANY shall submit a test protocol for the BIOFILTER at least 60 days prior to the compliance test date.
- E. The COMPANY shall conduct engineering evaluation, shakedown, and compliance testing to demonstrate compliance with all applicable PERMIT requirements and submit a test report within 180 days after completion of the remedial work.
- F. The COMPANY shall submit no later than 14 days after the deadline for completing each milestone required in Paragraph II written certification to the Air Quality Regional Supervisor, Raleigh Regional Office, Division of Air Quality, when such milestone has been performed.

III. The COMPANY agrees to pay the following civil penalties:

- A. The COMPANY agrees to pay the COMMISSION a civil penalty in the amount of \$22,750. This amount shall be due and payable within 30 days of the effective date of this ORDER.
- B. The COMPANY agrees to pay the COMMISSION stipulated penalties in the amounts of \$7,500 per month for the period of time from shutdown of the BIOFILTER until a test report demonstrating compliance with all applicable PERMIT requirements is submitted to DAQ. The stipulated penalties shall be paid in two payments. The first payment is due by January 15, 2020 and shall cover all months the MDF Facility was out of compliance with PERMIT requirements in calendar year 2019. The second payment is due within 15 days after the date that the final BIOFILTER test report required by Paragraph II.E. of this ORDER is submitted to DAQ and will cover all months the MDF Facility was out of compliance in calendar year 2020. Partial months shall count as whole months when determining the amount of stipulated penalties to be paid.

- IV. In the event that the COMPANY fails to comply with any deadline as set out in this ORDER or fails to achieve final compliance with any applicable requirement in this ORDER, the COMPANY agrees that, unless excused under Paragraph V, the COMPANY will pay the COMMISSION according to the following schedule:

<u>Deadlines and Requirements</u>	<u>Stipulated Penalties</u>
Failure to comply with any deadline specified in Paragraph II	\$500 per day for the first 5 days and \$1000 per day thereafter

Stipulated Penalties:

- Failure within thirty (30) days of receipt of the Director's written demand to pay the penalties will be grounds for a collection action, which the Attorney General is hereby authorized to initiate. By entering this ORDER, the COMPANY waives any and all defenses and agrees that the sole issues in such action are whether or not thirty (30) days has elapsed and/or whether or not the COMPANY is excused pursuant to Paragraph V of this ORDER. The COMPANY shall pay all costs, including agency and attorney fees, associated with collection of a delinquent stipulated penalty.
- V. The COMPANY's obligation to comply with the requirements set forth in this ORDER for which a stipulated penalty may be assessed, may be delayed or excused only to the extent that noncompliance is caused by circumstances beyond control of the COMPANY, as determined by the DAQ Director "DIRECTOR". Contractor delays or failure to obtain funding will not be considered events beyond the COMPANY's control. If any such delaying event occurs, the COMPANY shall notify the DAQ in writing within ten (10) days of encountering or discovering the delaying event, describing in detail the event or delay, the precise cause(s) of the event or delay, the measure(s) taken and to be taken by the COMPANY to prevent or minimize the event or delay, and the schedule by which those measures will be implemented. If the DIRECTOR determines that noncompliance

with this ORDER was caused by circumstances beyond the control of the COMPANY, the COMMISSION and the COMPANY jointly may stipulate and agree to a written modification of this ORDER. Any modification shall be subject to the requirements of 15A NCAC 2D .2201 et seq. Extension of any compliance date pursuant to this Paragraph shall not extend any subsequent deadlines established in the ORDER unless the subsequent deadline necessarily is dependent upon completion of the earlier deadline.

- VI. This ORDER resolves the violation(s) described in Paragraph I of this ORDER. Any violation of Air Quality Standards by the COMPANY that is not resolved by this ORDER remains subject to appropriate enforcement action pursuant to N.C.G.S. §§ 143-215.114A, 143-215.114B and 215.114C.
- VII. The COMPANY agrees to waive any rights it may have to seek judicial review to challenge this ORDER or to seek a stay of enforcement of this ORDER in connection with any judicial review of the State Implementation Plan. The COMMISSION acknowledges that this waiver does not prohibit the COMPANY from seeking modification of this ORDER if any regulatory standards upon which this ORDER is based are changed subsequent to its execution. In such cases, the COMPANY may petition that the ORDER be modified to reflect those regulatory changes.
- VIII. In the event the COMMISSION or the DAQ find that reports, plans, specifications, or permit applications required by Paragraph II are in any respect deficient or if additional information is necessary to comply with the requirements of North Carolina General Statutes 143-215.107 et seq., any regulations promulgated thereunder, or any other applicable laws or regulations, the COMPANY shall be notified by the DAQ as soon as possible. The COMPANY shall be afforded an opportunity to modify, amend or

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supplement its submissions to make such submissions complete and appropriate.

IX. All notices and reports required by this ORDER shall be delivered to:

Ray Stewart, Regional Air Quality Supervisor
N.C. Dept. of Environmental Quality
3800 Barrett Drive
Raleigh, North Carolina 27609

All payments required from the COMPANY by this ORDER shall be delivered to:

Enforcement Group-Payments
NCDEQ-DAQ
1641 Mail Service Center
Raleigh, North Carolina 27699-1641

X. This ORDER constitutes full and final settlement and satisfaction of all matters addressed herein and any and all claims or prospective claims that the COMMISSION has or may have for violations of regulations described in Paragraph I hereof, as of the date this ORDER is approved by the COMMISSION and continuing until this Order expires as provided in Paragraph XVI. This ORDER shall not affect the COMPANY's obligation to comply with any Federal, State, or local laws or regulations.

XI. Final approval and entry into this ORDER are subject to the requirements that the COMMISSION give notice of proposed consent decrees to the public, and that the public have at least thirty (30) days within which to comment on the ORDER.

XII. Should any provision of this ORDER be declared by a court of competent jurisdiction to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

XIII. Except as otherwise set forth herein, this ORDER is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the COMPANY of its obligations to comply in the

future with any permit.

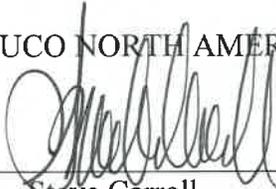
XIV. In the event of termination of operations and closure of the FACILITY, the COMPANY shall notify the DIRECTOR in writing, within five (5) business days of the earlier of (i) the date of any Workers Adjustment and Retraining Notification Act (WARNA) notification, or (ii) FACILITY closure. Receipt of said notification from the COMPANY by the DIRECTOR shall terminate any obligations of the COMPANY pursuant to this ORDER, including those pertaining to stipulated penalties, and this ORDER shall become null and void in its applicability to the COMPANY. The COMPANY acknowledges its responsibilities pursuant to this ORDER from the date of final approval and entry of this ORDER, through the date of receipt by the DIRECTOR of notification of closure required by this Paragraph.

XV. This ORDER is effective on execution by the Division of Air Quality and shall expire on December 31, 2020, or on the date that the Division of Air Quality notifies ARAUCO in writing that the test results submitted in accordance with Paragraph II.E. of this ORDER are acceptable to demonstrate compliance with the applicable PERMIT requirements for the MDF Facility, whichever date comes first.

This the 26 day of July, 2019.

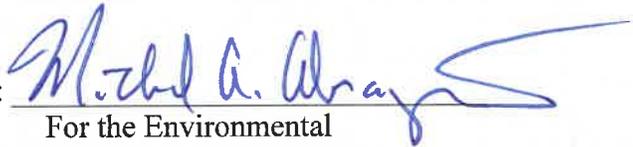
ARAUCO NORTH AMERICA, INC.

BY: _____


Steve Carroll
Manufacturing Director
Moncure, N.C.

APPROVED AND ACCEPTED

BY: _____


For the Environmental
Management Commission

DATE: _____

9/5/19